

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHARLOTTE SMITH,
Plaintiff,

v.

**COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,**
Defendant.

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CIVIL ACTION No. 6:13-cv-890

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE**

Plaintiff Charlotte Smith filed the above-styled and numbered civil action pursuant to the Social Security Act, Section 205(g), for judicial review of the Commissioner's denial of Plaintiff's application for Social Security benefits. The cause of action was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the decision of the Commissioner should be affirmed and the action dismissed with prejudice.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Plaintiff has filed an objection to the Report and Recommendation. In the objection, Plaintiff first states that Magistrate Judge improperly failed to follow the required sequential analysis of 20 C.F.R. § 404.1520. In reviewing the credibility finding the Magistrate Judge stated that the ALJ must determine if the symptoms result in a "disability." *Report and Recommendation* at 8-9. However, the ALJ must instead determine whether there is a finding of a limitation, rather than a disability, that will limit the Plaintiff's RFC. Though stating this incorrectly, the

Magistrate Judge correctly considered the proper legal standard and found the ALJ's determination to be supported by substantial evidence. *Id.* Then, the Plaintiff claims that the Magistrate Judge improperly failed to apply the proper legal standards regarding the SSR 96-7p factors. While the use of the "perfunctorily" was incorrect, the ALJ satisfactorily assessed the Plaintiff's credibility by analyzing each of the factors listed in SSR 96-7p, as shown in the Report and Recommendation. *Report and Recommendation* at 9. An ALJ need not "follow formalistic rules in his articulation." *Falco v. Shalala*, 27 F.3d 160, 163 (5th Cir. 1994). He is further not required to "name, enumerate, and discuss each factor in outline or other rigid, mechanical form," so long as it is clear that the factors were considered. *Prince v. Barnhart*, 418 F. Supp. 2d 863, 871 (E.D. Tex. 2005). The ALJ correctly analyzed the Plaintiff's symptoms, activities, and medication or treatment. Therefore, any error is harmless.

Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly **ORDERED** that the decision of the Commissioner is **AFFIRMED** and the complaint is hereby **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that any motion not previously ruled on is **DENIED**.

It is SO ORDERED.

SIGNED this 13th day of July, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE